



A BILL FOR AN ORDINANCE

RELATING TO THE REGULATION OF SIDEWALKS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and purpose.

The council finds:

1. Under federal and state law, local governments have primary responsibility for the management of public sidewalks.
2. The proper regulation of public sidewalks must provide for multiple beneficial uses, the safety of sidewalk users, efficient movement of people and delivery of goods and services, as well as access to public spaces for full lawful use.
3. A pedestrian use zone dedicated to, and protected for, the use of pedestrians that allows other beneficial uses on a substantial portion of adjacent sidewalk or by permit or proper exception would serve compelling interests of the City in high pedestrian traffic areas.
4. It is important that the public be able to use sidewalks as places of permitted commerce and to socialize, gather and speak.
5. Commercial and other uses such as sidewalk furniture, bicycle racks, signal controller boxes, drinking fountains, fire hydrants, parking meters, transit shelters, light poles, mail boxes, telephones, retail and commercial doorways, garbage cans, newspaper boxes, benches, permitted carts and cafes, planters and public art, among other items, are all necessary and beneficial uses of sidewalks but can be in conflict with safe pedestrian use of sidewalks.
6. Public sidewalks are a public service and pedestrian facility that must be designed and operated in compliance with the accessibility standards in the *Architectural Barriers Act of 1968*, the *Rehabilitation Act of 1973 (Section 504)*, and the *Americans with Disabilities Act of 1990*. The design and management of public sidewalks must accommodate pedestrians of all abilities as required by law but is particularly important to those with disabilities such as older adults, persons with vision impairments, and children who have limited travel choices and must rely on public pedestrian right-of-ways.
7. The United States Department of Transportation estimates that approximately 20 percent of Americans have a disability, and that percentage is increasing. As



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estimated by the United States Department of Transportation, by the year 2030, one in five Americans will be 65 years or older.

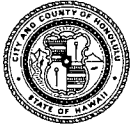
8. Federal design guidelines emphasize that sighted pedestrians do not feel comfortable walking directly adjacent to building walls, doors or fences and prefer to keep at least two feet away from the edge of sidewalks opposite the street (known as the "frontage line"). As a result, most pedestrians travel more than two feet away from the frontage line, and the sidewalk adjacent to the frontage line does not provide its proportionate share of sidewalk through-put capacity for sighted pedestrians. In contrast, people with vision impairments often prefer to travel close to the frontage line to use sound or physical contact for orientation or guidance, traveling one to four feet from the frontage line.
9. Federal guidelines advise: (a) the area along the frontage line should be free of fixed obstacles and protruding objects that cannot be detected by cane and that fixed, stable and predictable sidewalk topography greatly benefits people with vision impairments, (b) people using a guide dog, crutches or a walker require four feet of width as they travel along a sidewalk, (c) wheelchair users require five feet to turn around and six feet to pass other wheelchairs, (d) sidewalk capacity is greatly reduced if pedestrians cannot pass each other, both oncoming and overtaking, and greatly enhanced if two pedestrians walking side-by-side can pass an oncoming pedestrian, and (e) a sidewalk corridor six to ten feet wide should be specifically reserved for pedestrian travel in high traffic areas.
10. A pedestrian use zone eight feet wide extending from the frontage line and permitted frontage-side uses would adequately serve the City's compelling need to protect pedestrian travel while providing room for other beneficial uses.

The purpose of this ordinance is to regulate sidewalk usage to provide for pedestrian safety by establishing a pedestrian use zone.

SECTION 2. Section 29-1.1, Revised Ordinances of Honolulu 1990 ("Definitions"), as amended, is amended by adding new definitions of "Mobility device," "Pedestrian," "Pedestrian Use Zone," "Replacement sidewalk," "Stored property," and "Urban Zone" to read as follows:

"Mobility device" means a wheelchair, crutch, cane, walker or device that functions similarly to allow an injured or disabled person increased mobility for sidewalk travel."

"Pedestrian" means a person who is on foot or assisted by a mobility device and able to move immediately to accommodate other sidewalk users."



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““Pedestrian Use Zone” means the portion of the width of a sidewalk that extends toward the street up to eight feet from the adjacent private or public property line bordering the sidewalk opposite the curb; provided that the Pedestrian Use Zone also constitutes the portion of the width of a replacement sidewalk that is up to eight feet from the replacement sidewalk’s edge furthest from the street.”

““Replacement sidewalk” means a pedestrian passageway that crosses private property pursuant to a public easement, usually resulting from obstructions on public land that require pedestrians to pass across adjacent private property.”

““Stored property” means any and all tangible personal property, including items, materials, equipment, fixtures, and structures, that has been left within the Pedestrian Use Zone for more than 24 hours without authorization by statute, ordinance, permit or regulation or other authorization by the city or state.”

““Urban Zone” includes the Ala Moana/Kakaako, Downtown, Kalihi, McCully/Moiliili/Makiki, and Waikiki Districts, as described in Section 29- .3 and includes the sidewalks on both sides of the streets, avenues, boulevards, highways, roads and drives within those districts and those marked as the district boundaries.”

SECTION 3. Chapter 29, Revised Ordinances of Honolulu 1990 (“Streets, Sidewalks, Malls and Other Public Places”), as amended, is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

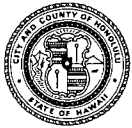
“Article _____. Use of Sidewalk for Pedestrian Use.

Sec. 29-___.1 Limitation.

- (a) Except as otherwise provided in Section 29-___.4, only a pedestrian may use the Pedestrian Use Zone in accordance with this article.
- (b) It is an affirmative defense to prosecution under this article that the behavior occurred within one foot of the curbside boundary of the Pedestrian Use Zone, that the boundary of the zone was not marked, and the person believed in good faith that the person was not in the Pedestrian Use Zone.

Sec. 29-___.2 Placing Objects On or Above the Pedestrian Use Zone.

Except as otherwise provided in Section 29-___.4, no person may deposit, install, place, fix or leave any object or item in, on or above a Pedestrian Use Zone except



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personal baggage or luggage that is within arm's reach of the pedestrian possessor. "Personal baggage" means items of personal possession that can be carried or transported by pedestrians.

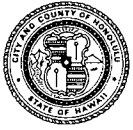
Sec. 29-__3 Applicability.

- (a) The requirements and restrictions of this article shall apply only to the Urban Zone between the hours of 5:00 a.m. to 10:00 p.m., except that in the Waikiki District the requirements and restrictions of this article shall apply between the hours of 6:00 a.m. on any one day until 2:00 a.m. of the succeeding day. The city may extend these hours in one or more of the areas described in subsection (b) when the requirements and restrictions of this article shall apply, during an emergency or for special security reasons. For the purposes of this subsection, an emergency means a natural disaster, such as a fire, flood, tsunami, earthquake, or other natural calamity, or a man-made disaster, including those caused by sabotage or other hostile action.
- (b) For the purposes of this article, the Ala Moana/Kakaako District is the area whose boundaries are shown in Exhibit A, the Downtown District is the area whose boundaries are shown in Exhibit B, the Kalihi District is the area whose boundaries are shown in Exhibit C, the McCully/Moiliili/Makiki District is the area whose boundaries are shown in Exhibit D, and the Waikiki District is the area whose boundaries are shown in Exhibit E.

Sec. 29-__4 Exceptions.

The prohibitions in this article shall not apply to persons:

- (a) Unable to comply due to suffering a medical emergency;
- (b) Who are acting as authorized or allowed by any article under this chapter or any other ordinance, permit, regulation or statute;
- (c) Performing a government-approved public safety, maintenance or construction function;
- (d) Participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to and in compliance with an applicable permit;
- (e) Sitting on a chair or bench supplied or permitted by a public agency;



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- (f) Waiting in line for goods or services unless the person refuses to comply with a lawful order of a police officer to form the line in a way that moderates impact on passage along the sidewalk;
- (g) Waiting at a bus stop or taxi stand for a bus or a taxi;
- (h) Moving freight or merchandise for commercial purposes; or
- (i) Who are engaged in expressive activities or who are using tables or other portable outdoor furniture or items for the purpose of displaying literature or other expressive material or otherwise directly facilitating expressive activities; provided that the tables, furniture, or items do not obstruct the free movement of pedestrians through the Pedestrian Use Zone, do not interfere with other lawful activities taking place on the sidewalk and comply with other provisions of this chapter; and provided further that no table, item of furniture, or other item shall be larger than five feet by two feet or 10 square feet for each person engaging in the expressive activity.

Sec. 29-___.5 Penalty.

Any person violating any provision of this article shall, upon conviction, be subject to a maximum penalty of \$50.00. In lieu of this penalty, a judge may sentence a person found to have violated any provision of this article to community service for such period as determined by the judge.

Sec. 29-___.6 Marking of boundaries of Pedestrian Use Zone.

The city may mark the boundary or boundaries of the Pedestrian Use Zone."

Sec. 29-___.7 Stored property; Impoundment.

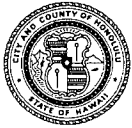
- (a) No person shall store property within the Pedestrian Use Zone. All stored property may be impounded by the city. In the event personal property stored within the Pedestrian Use Zone interferes with the safe and orderly management of or flow of pedestrian traffic within the zone or is an imminent threat to the health, safety, or welfare of the public, it may be impounded at any time by the city without prior notice.
- (b) Personal property left within the Pedestrian Use Zone shall be deemed to be illegally stored property if it has not been removed from the zone within twenty-four hours of the service of written notice, as described in subsection (c), and the



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city may cause the removal and impoundment of such stored property; provided that moving the personal property from one location within the Pedestrian Use Zone to another location within the zone shall not be deemed to be "removing" the personal property from the zone; and provided further that this subsection shall not apply to personal property that is stored within the Pedestrian Use Zone pursuant to statute, ordinance, permit, regulation or other authorization by the city or state.

- (c) The written notice required to be served by subsection (b) shall be deemed to have been served if a copy of the written notice is attached to the personal property located within the Pedestrian Use Zone. The notice required by subsection (b) shall contain the following:
- (1) A description of the personal property to be removed (such description may refer to an attached photograph).
 - (2) The location of the personal property.
 - (3) The date and time the notice was posted.
 - (4) The section of the ROH that is being violated.
 - (5) A statement that the personal property will be impounded if not removed from the Pedestrian Use Zone within 24 hours.
 - (6) The location where the removed property will be stored.
 - (7) A statement that impounded property will be sold or otherwise disposed of if not claimed within 30 days.
 - (8) A statement that the property owner shall be responsible for all costs of removal, storage and disposition.
- (d) Impounded property shall be moved to a place of storage, and the property owner shall be assessed moving, storage, and other related costs. Additionally, the owner of impounded property shall bear the responsibility for the risk of any loss or damage to the impounded property.
- (e) The city shall send notice by certified mail at least 30 days prior to disposition of the impounded property, to the last known address of the owner of the property if the owner is known or can be determined. The notice shall apprise the owner of the identity and location of the property impounded and of the intent of the city to



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sell, donate, or otherwise dispose of the property. Where the identity or the address of the owner is unknown or cannot be determined, the notice shall be posted within the Pedestrian Use Zone where the property was stored or seized. If notice cannot be posted as provided heretofore, then such notice shall be posted on the internet website of the city for three consecutive days. If the impounded property has an estimated value of \$1,000 or more, the city shall also publish public notice of the disposition, including a brief description of the property, at least once either through publication in a publication of statewide circulation or in a publication of local circulation where the property was impounded; provided that the disposition shall not take place less than five days after notice of intent to dispose of the property.

- (f) Following proper notice as provided in subsection (e), impounded property having an estimated value of \$1,000 or more shall be sold by public auction through oral tenders. The requirement for public action shall not apply when the estimated value of the impounded property is less than \$1,000. Property may be disposed of as property without commercial value if it was publicly auctioned but no bid was received, or if the estimated value is less than \$1,000.
- (g) If the city determines that any impounded property has no apparent commercial value or is of a perishable nature, the city at any time thereafter may destroy the impounded property or the property may be sold by negotiation, disposed of or sold as junk, kept by the city or donated to any other government agency or charitable organization. The city shall maintain a record of the date and method of disposal of the property, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such record shall be kept as a public record for a period of not less than two years from the date of disposal of the property.
- (h) All charges and all expenses of handling, storage, appraisal, advertising, and other sale expenses related to the impounded property shall be deducted from the proceeds of any sale of the impounded property. Any amount remaining thereafter shall be held in trust for the owner of the property for 30 days after sale, after which time, if no claim has been made therefor, the proceeds shall be paid into the general fund.
- (i) The owner or any other person entitled to the impounded property may repossess the property prior to its disposition upon proof of ownership or entitlement and payment of all unpaid rent, debts, and charges owing and all handling, storage, appraisal, advertising, and any other expenses incurred in connection with the impoundment and proposed disposition of the impounded property.



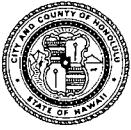
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- (j) The city, its officers, employees, and agents shall not be liable to the owner of impounded property because of any disposition of the property made pursuant to this section. The remedies available to the owner of impounded property are limited to those provided in this section.

Sec. 29-__8 Rules.

In accordance with HRS chapter 91, the department of facility maintenance or a department designated by the mayor may adopt rules having the force and effect of law for the implementation, administration, and enforcement of this article."

SECTION 4. New ordinance material in Section 2 is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the underscoring.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 10 - 26

BILL 39 (2010), CD1, FD2

A BILL FOR AN ORDINANCE

SECTION 5. This ordinance shall take effect sixty days following its approval. During the period after the approval of this ordinance but before it takes effect, the city shall conduct an educational and warning program to inform the public about the restrictions and applicability of this ordinance.

INTRODUCED BY:

Ann Kobayashi

DATE OF INTRODUCTION:

July 20, 2010
Honolulu, Hawaii

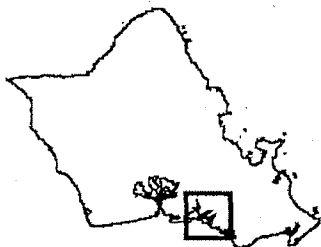
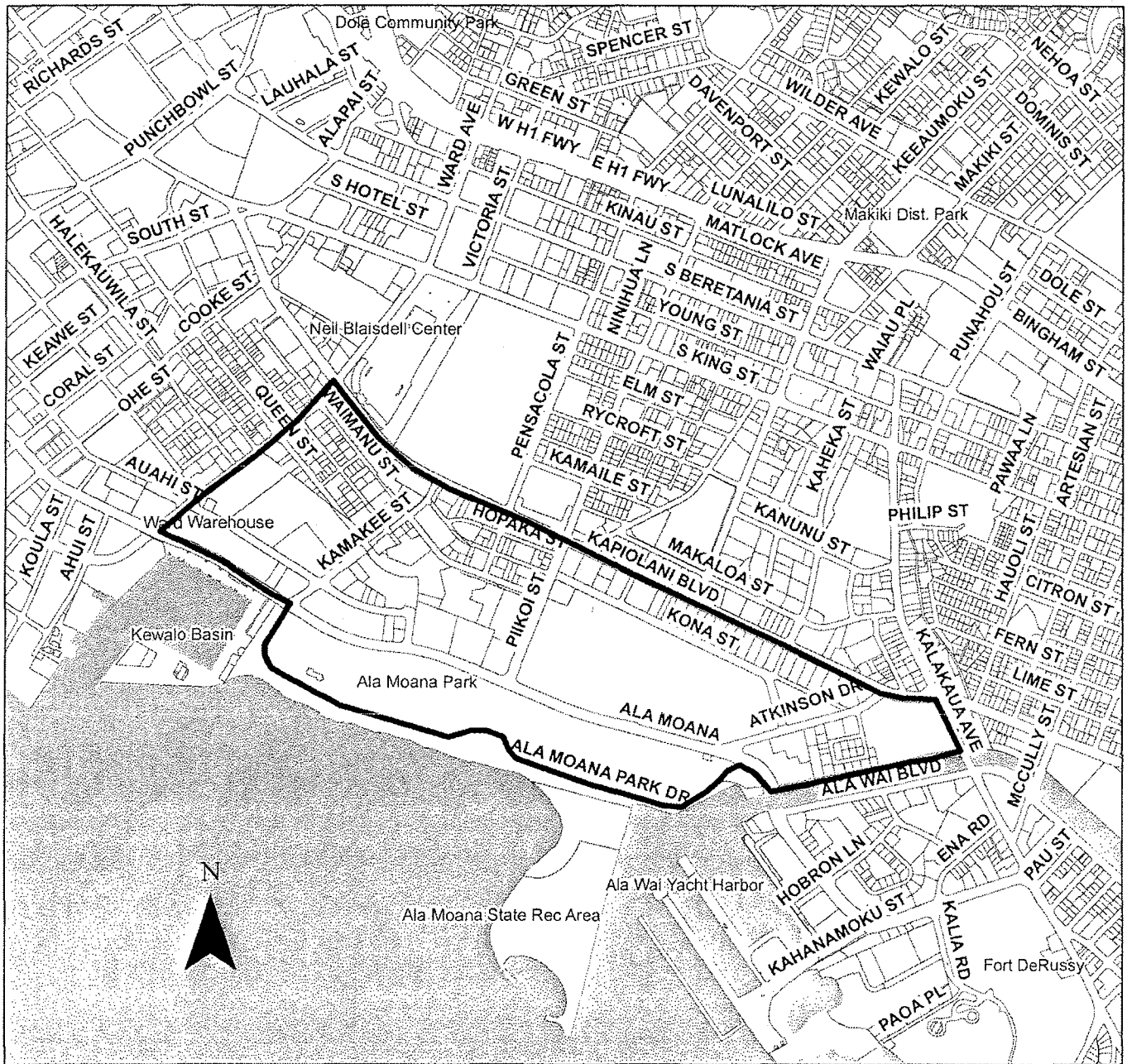
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Dawn D. McGuire
Deputy Corporation Counsel

APPROVED this 27th day of October, 2010.

Peter B. Carlisle
~~Mayor~~ PETER B. CARLISLE, Mayor
City and County of Honolulu



LOCATION MAP: ALA MOANA/KAKAOKO DISTRICT

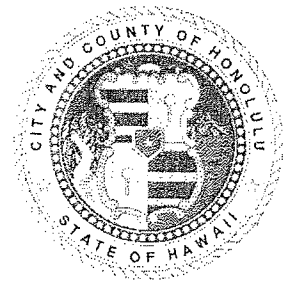
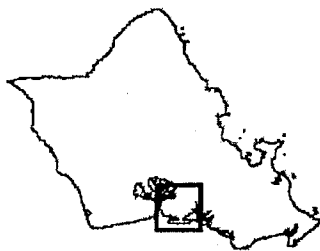
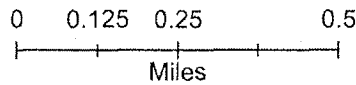
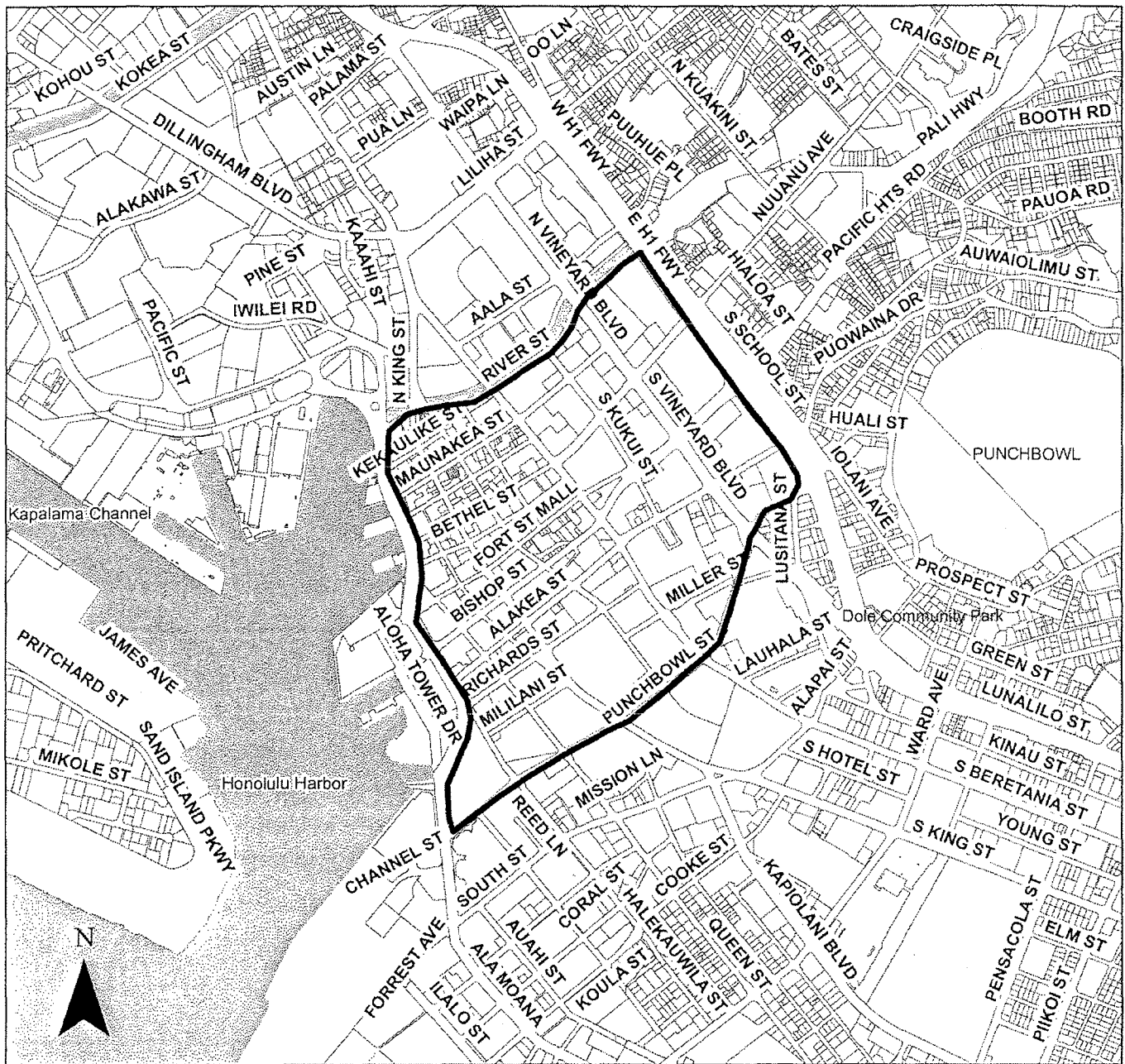


Exhibit A

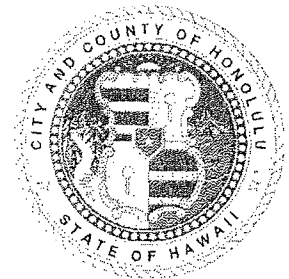
Office of Council Services
City and County of Honolulu

October 2010



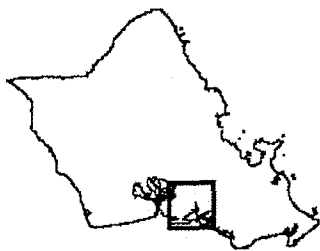
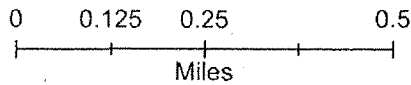
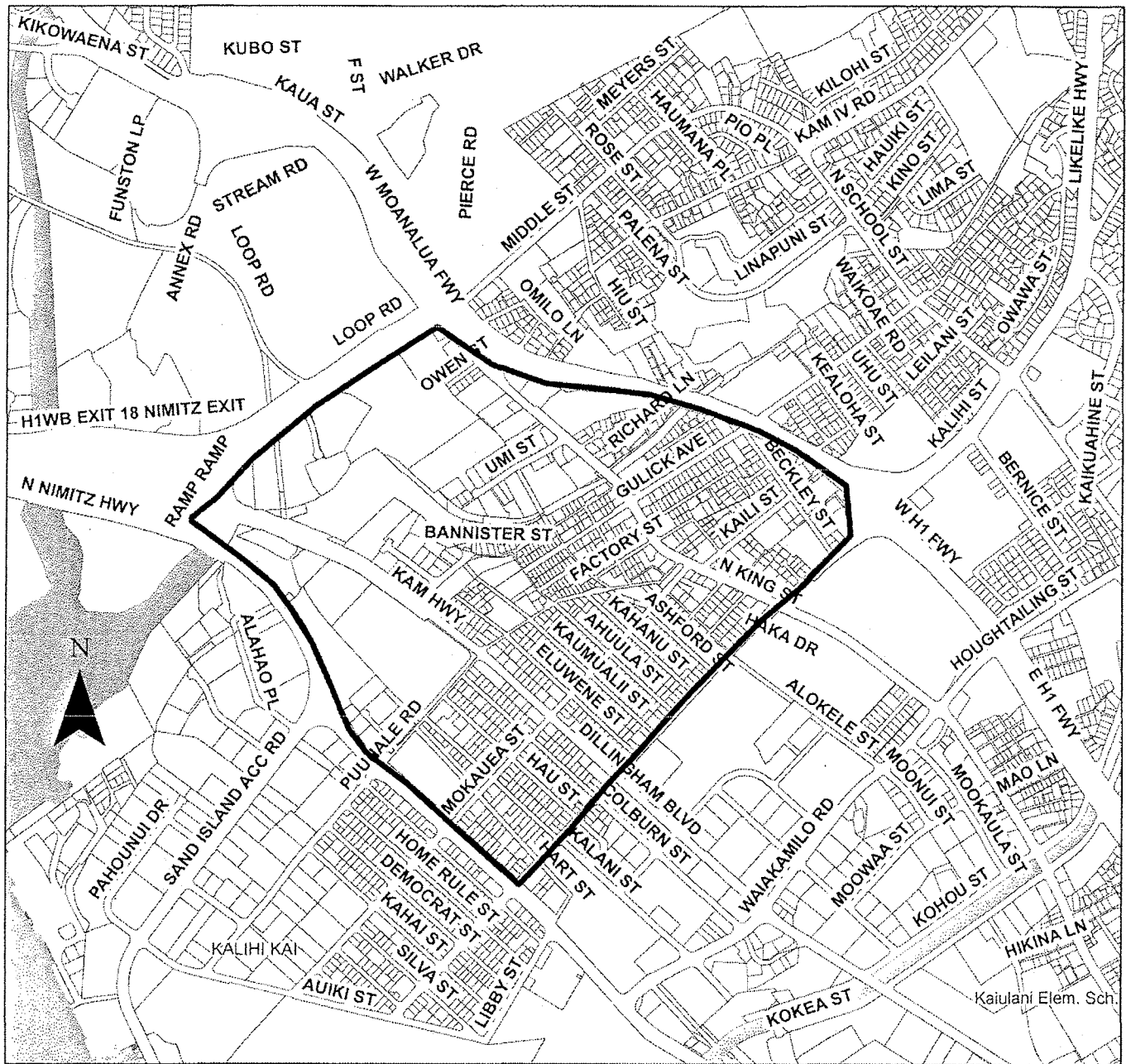
LOCATION MAP: DOWNTOWN DISTRICT

Exhibit B



Office of Council Services
City and County of Honolulu

October 2010



LOCATION MAP: KALIHI DISTRICT

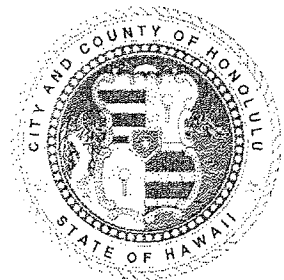
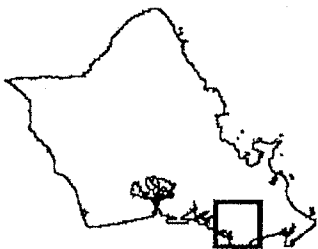
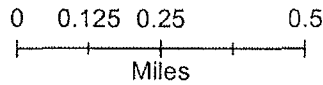
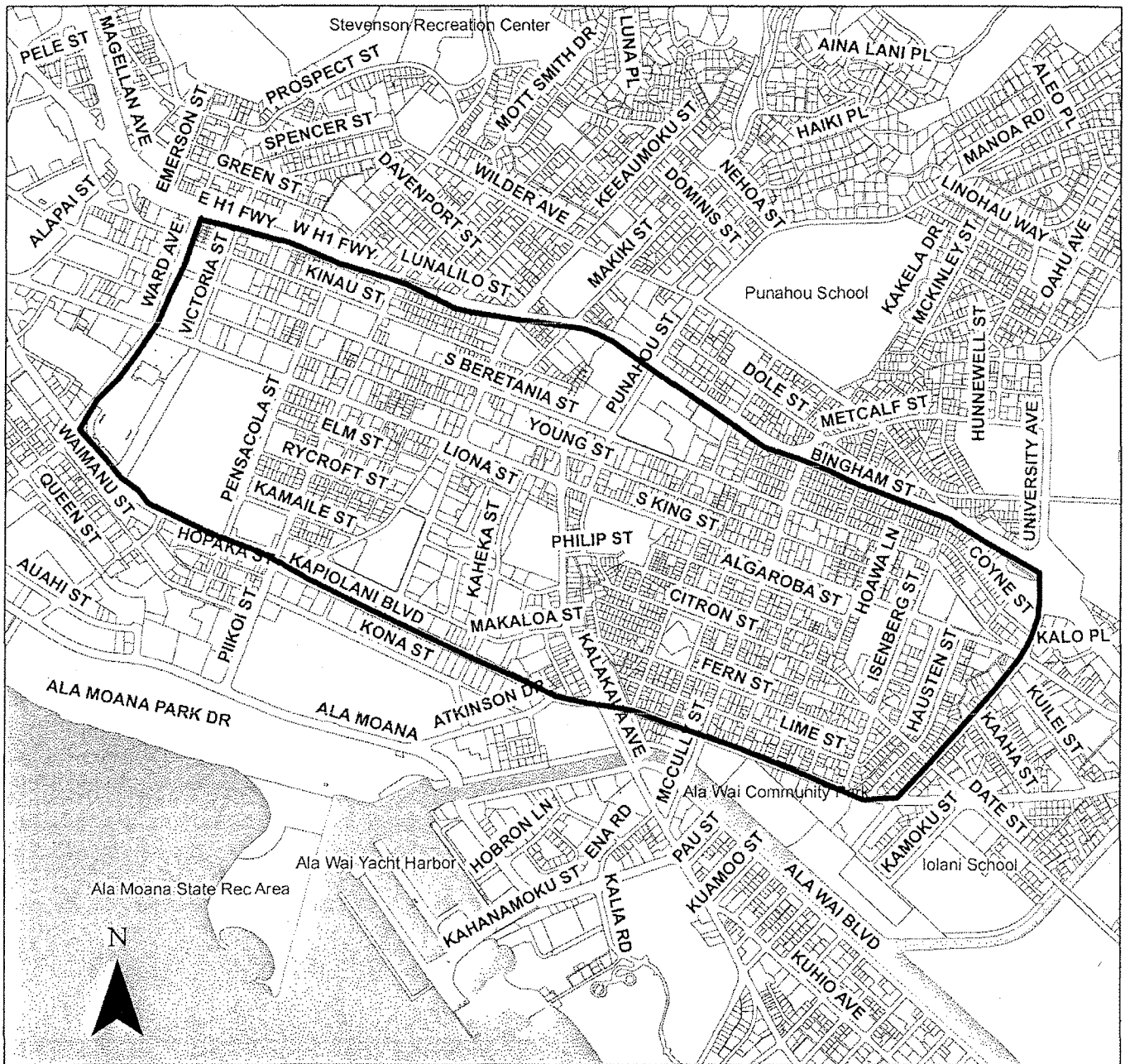


Exhibit C

Office of Council Services
City and County of Honolulu
October 2010



LOCATION MAP: McCULLY/MOILIILI/MAKIKI DISTRICT

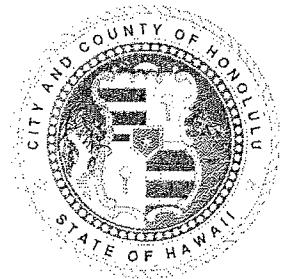
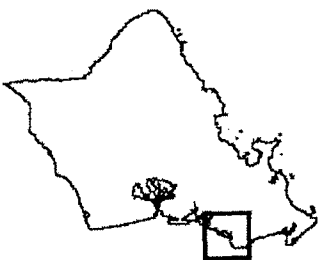
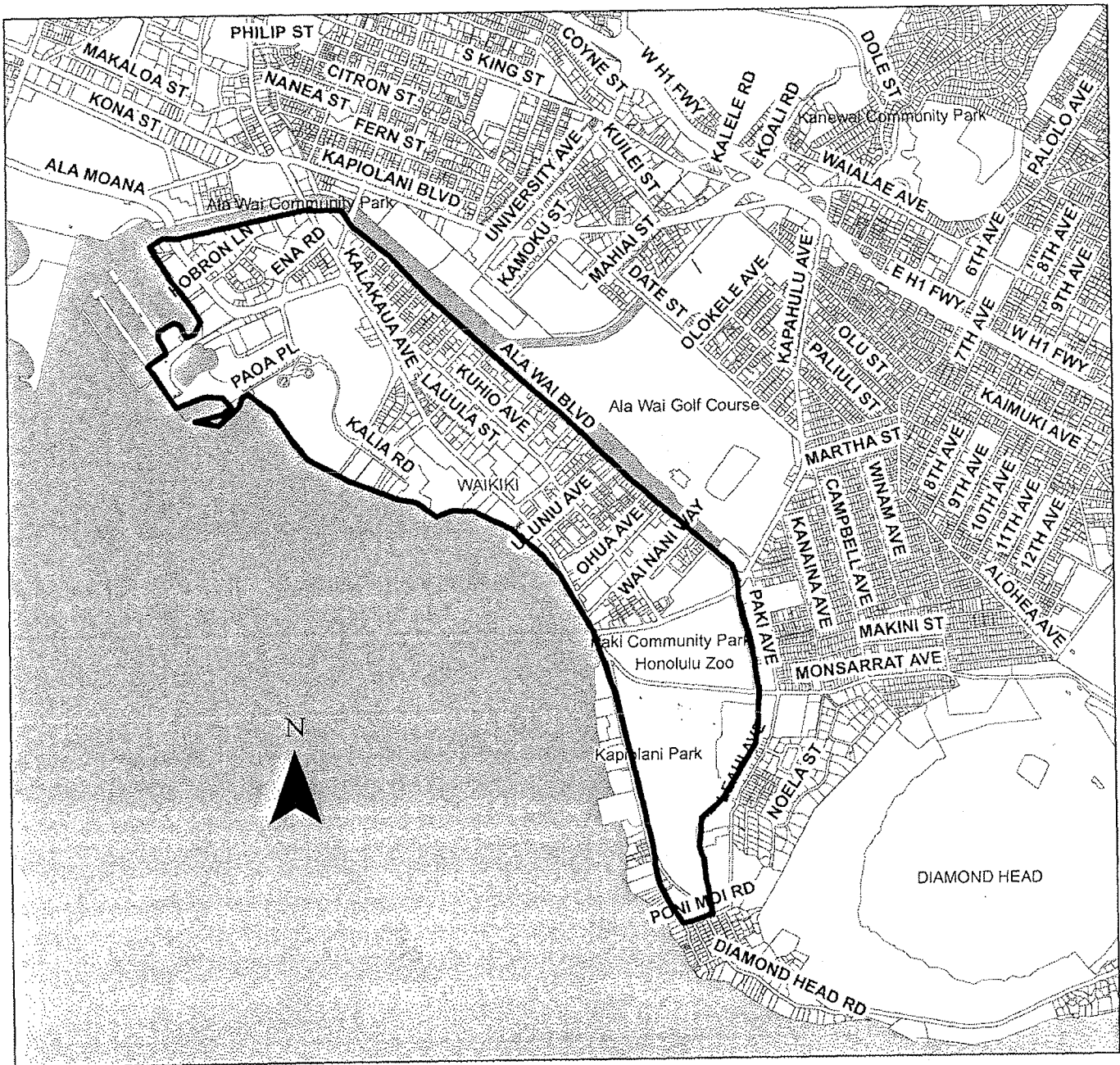


Exhibit D

Office of Council Services
City and County of Honolulu

October 2010



LOCATION MAP: WAIKIKI DISTRICT

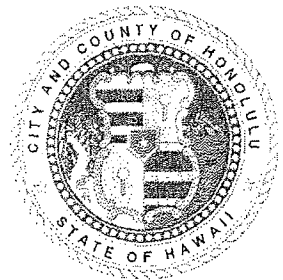


Exhibit E

Office of Council Services
City and County of Honolulu
October 2010

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 10 - 26

BILL 39 (2010), CD1, FD2

Introduced: 07/20/10 By: ANN KOBAYASHI

Committee: PUBLIC
INFRASTRUCTURE

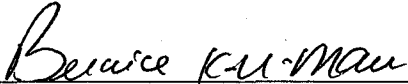
Title: A BILL FOR AN ORDINANCE RELATING TO THE REGULATION OF SIDEWALKS.

Links: [BILL 39 \(2010\)](#)
[BILL 39 \(2010\), FD1](#)
[BILL 39 \(2010\), CD1, FD2](#)
[CR-274](#)
[CR-310](#)

COUNCIL	08/18/10	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON PUBLIC INFRASTRUCTURE.				
	ANDERSON Y	APO Y	CACHOLA Y	DELA CRUZ Y	DONOHUE Y	
	GARCIA Y	KOBAYASHI Y	OKINO Y	TAM Y		
PUBLIC INFRASTRUCTURE	08/31/10	CR-274 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.				
PUBLISH	09/11/10	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.				
COUNCIL	09/22/10	BILL 39 (2010) AMENDED TO FD1.				
	ANDERSON Y	APO Y	CACHOLA Y	DELA CRUZ Y	DONOHUE Y	
	GARCIA Y	KOBAYASHI Y	OKINO Y	TAM Y		
		CR-274 ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON PUBLIC INFRASTRUCTURE.				
	ANDERSON Y	APO Y	CACHOLA Y	DELA CRUZ Y	DONOHUE Y	
	GARCIA Y	KOBAYASHI Y	OKINO Y	TAM Y		
PUBLISH	09/30/10	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.				
PUBLIC INFRASTRUCTURE	10/05/10	CR-310 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN <u>FD1, CD1</u> FORM.				

COUNCIL	10/13/10	BILL 39 (2010), FD1, CD1 AMENDED TO CD1, FD2.							
ANDERSON	Y	APO	Y	CACHOLA	Y	DELA CRUZ	Y	DONOHUE	Y
GARCIA	Y	KOBAYASHI	Y	OKINO	Y	TAM	Y		
CR-310 ADOPTED AND BILL 39 (2010), CD1, FD2 PASSED THIRD READING AS AMENDED.									
ANDERSON	Y	APO	Y	CACHOLA	Y	DELA CRUZ	N	DONOHUE	N
GARCIA	N	KOBAYASHI	Y	OKINO	N	TAM	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.



BERNICE K. N. MAU, CITY CLERK



TODD K. APO, CHAIR AND PRESIDING OFFICER